



Ontario
Human Rights
Commission

Volume 3, Number 1,
March 1982

Published by The Ontario Human
Rights Commission



by Mark Nakamura

When one thinks of racial tension and conflict, there is a tendency to think of them as occurring during the summer months. Recent civil disturbances, as in Miami in the U.S.A., and in Brixton and Southall in Britain, took place in the summer. Watts also erupted during the summer, and there is a body of evidence to indicate that the likelihood of racial conflict is greater at this time of the year.

In Metropolitan Toronto, for instance, it was this very concern that prompted the North York Mayor's Committee on Community, Race and Ethnic Relations to request from city council, resources to hire

six street workers whose responsibilities, amongst other tasks, were to monitor the race relations climate in strategic locations in the city during the summer months. The program was

so successful that the mayor's committee plan to continue it during the summer of 1982.

Experience shows that the final incident before the outbreak of disorder generally occurs in a place where it is normal for many people to congregate — either on the streets or in other public areas — and at a time when the largest crowds are likely to be present. Over half of the disturbances examined in one study occurred on Friday nights, and on Saturdays and Sundays. The temperature is typically high, contributing to the size of crowds, especially in high density neighbourhoods.

There are certain universal elements that indicate the potential for greater conflict during the summer. We all suffer from shorter fuses and a lesser degree of tolerance when the heat prevents us from sleeping as well as we would like. The mere fact that prejudice and discrimination exist in our society lowers tolerance of differences based on race and

continued on page 2

Commission gets new chairman

On December 14, 1981, Premier William G. Davis announced the appointment of Canon Borden C. Purcell of Ottawa as chairman of the Ontario Human Rights Commission.

The appointment became effective February 19, 1982 and will continue until December 31, 1984.

Canon Purcell will succeed Dr. Dorothea Crittenden who was appointed the first woman chairman of the commission in 1978, after a distinguished career as an Ontario public servant.

continued on page 2

OFL launches anti-racism campaign

by Wilfred List

The spotlight focuses on a group of murky figures racing through the darkness. One holds a spray can; another, chalk. As the scene lights up they are exposed against a brick wall, and scrawled on the wall are the words: Racism Hurts Everyone.

The tableau is a segment of a 30-second television commercial, part of a \$100,000 campaign by the Ontario Federation of Labor to combat racism.

The effort is the most expensive program ever undertaken by the labor federation and is directed both at union members and the public.

Not only labor, but also employers are to be enlisted in the federation's project, with the bosses being asked to permit the OFL to post in their

continued on page 4



A new human rights code for Ontario

On December 7, 1981, Bill 7, the new *Ontario Human Rights Code*, was given final approval by the legislature and, after proclamation, will become law.

In subsequent editions of *Affirmation*, we will discuss various aspects of the new Code, so that our readers may familiarize themselves with its many new provisions.

continued from page 1

The summer of discontent ethnicity. When other heat-oppressive factors further erode that tolerance level, it appears inevitable that there exists an increased potential for a conflict situation to take on racial dimensions.

The lack of recreational facilities, parkland and planned community events, particularly in high density neighbourhoods having a tendency towards inter-racial friction, can result in a destructive social climate. When the weather becomes too uncomfortable, some people have the advantage of escaping to the cottage at weekends or taking a pleasant summer vacation. Others, however, find their escape confined to apartment lobbies and parking lots, corridors, shopping plazas, school yards and crowded swimming pools.

Most young people enjoy the summer months if they are fortunate enough not to need a summer job. Others may have to work, but cannot secure employment because they lack an available job network through family friends, or they lack job skills or they are non-competitive in a job market, or they encounter racial or ethnic discrimination. Erosion of self-image and self-worth, a sense of hopelessness and feelings of frustration and resentment are the by-products.

In addition, a tenuous police-youth relations climate generally, and a poor police-minority youth climate in particular, are aggravated by increased contact during the summer months.

Retaliatory violence has tended to increase during periods of heightened protest activity which, in

turn, develops in times of tight economy, high unemployment and housing shortages. Cities in which non-whites are integrated into the social, economic and political fabric of the community have been shown to be less likely to experience inter-racial violence. Surveys of American cities also reveal that communities with racially-integrated police forces are less riot-prone.

Analysis of conflict situations further shows that disorder does not erupt simply as the result of one precipitating incident, although a single, and often, very minor, incident following a succession of many can become 'the last straw' and the triggering agent for widespread social disorder. Disorder more truly develops out of an increasingly disturbed social and economic climate, in which a series of tension-heightening incidents over a period of months becomes linked in the minds of minority group members who have a shared identification of underlying grievances.

Examinations of past events indicate that solutions exist through the infusion of resources and through community and institutional short and long-term planning before the potential for large-scale conflict occurs. Strategies must be designed to remedy the underlying root causes for community conflict. This does not speak to the waste of society's resources that occurs during a destructive outpouring of both anger and despair by its victims, and the massive infusion of short-term oriented resources to contain, control and then endeavour to rebuild.

Mark Nakamura is manager of the Ontario Human Rights Commission's Race Relations Division.

continued from page 1

Commission gets new chairman 'Dr. Crittenden has been an able and compassionate servant of the people of this province, formerly as the deputy minister of Community and Social Services and then as chairman of the Commission,' said Premier Davis.

'I would like to express the Ontario Government's gratitude for her dedication to her work and her sensitive understanding of the needs of citizens who are affected by government programs and services,' said the Premier.

Canon Purcell, who has been Canon of Christ Church Anglican Cathedral in Ottawa since 1973, was first appointed a member of the OHRC in 1978 and was reappointed in 1981.

Fifty-three years old, he was born in Athens, Leeds County. He obtained an Honours Degree in Philosophy and Economics in 1951 from the University of Bishop's College in Lennoxville, Quebec. At the same time, he received three years' officer training with the Royal Canadian Army Chaplains Corps.

He obtained a Bachelor of Sacred Theology in 1954 from Trinity College at the University of Toronto. He was ordained a deacon in 1953 and a priest in 1954 in the Niagara Diocese.



Canon Purcell has been deeply involved in liturgical renewal at the parochial, diocesan, national and international levels. His work has involved the planning and implementation of many events, such as conferences on racism, refugees and other disadvantaged persons. In 1978, he was a delegate to the International Consultation on Human Rights, Dublin, Ireland. He was also a delegate and speaker at the National Consultation on Theology and Human Rights in 1978 at Fredericton, N.B.

His early career was in city, suburban and town churches in the Niagara Falls area. He was appointed Rector of the Church of St. John the Evangelist in Ottawa in 1969.

Canon Purcell's activities have included the chairmanship of the Board of Directors of the Anglican

Treaty rights beats human rights



The Daily Press, Timmins

pushover. The Cultural Centre — Treaty #9 team, faced with the remote possibility of losing, promptly pulled their starting pitcher, Archie Cheecho, the director of Liaison and Public Relations for Grand Council Treaty #9. He was replaced with their ace reliever, Bert Morrison, the program co-ordinator for the Ojibway Cree Cultural Centre, who proceeded to retire the inning with his infamous corkscrew pitch.

The Northern staff of the Ontario Human Rights Commission and a combined team from Grand Council Treaty 9 and the Ojibway Cree Cultural Centre met on September 1, 1981 for their third annual softball game. The game, which is played each summer in Timmins, has become a traditional event and its purpose is to promote and build a liaison between the Northern staff of the commission and the employees of Treaty #9 and the cultural centre.

This year, the Treaty #9 — Cultural Centre team envisaged an easy victory since they had twice before defeated the commission team. However, the Northern staff had been scheming for over a year and were bolstered by the presence of Norman Hall and Cathy McLelland, commission summer students hired through the Government of Ontario's Experience '81 program.

It was obvious from the beginning of the game, when the commission jumped into a two-run lead, that they were not going to be a

Bill Jackson, the Kenora human rights officer and pitcher for the commission team, started to lose his concentration, and the Treaty 9 - Cultural Centre team pulled ahead. At that point, the Cultural Centre - Treaty 9 team tried to call the game because of rain, but the 'never say die' — human rights team insisted on continuing. The commission team finally had to concede the game because of darkness.

The final score was 10-7 in favour of the Treaty 9 - Cultural Centre team, and the commission team once again managed to snatch defeat from the jaws of victory.

After the game, both teams got together for a social, and the final comment came from Jo-Anne St. Onge, the Timmins human rights officer, who was quoted as saying 'Wait until next year!'

The French factor

A Toronto firm advertised for a French co-ordinator and Ms. N. applied for the job. However, she was not considered because she was not of French or French-Canadian background.

Since she was fluently bilingual, she believed that she should have been considered for the position and that her rejection offended against the provision of the Human Rights Code that prohibits discrimination on the basis of ancestry.

In settlement of the complaint, the respondent paid her \$1,500.00 in compensation for lost earnings and

continued on page 4

A hearty welcome and every good wish to the new chairman.

Affirmation
Published quarterly by:
The Ontario Human Rights Commission

Editorial Office
80 Grosvenor Street
Toronto, Ontario
M7A 1A7
(416) 965-2388

ISSN 0228-5800

Borden C. Purcell
Chairman

Editorial Board

W. Gunther Plaut, editor
Jill Armstrong
George A. Brown
J. William Preiner
Bhauasheb Ubale
Catherine Wilbraham

Editorial

Well done Crit!

After four years as chairman of the Ontario Human Rights Commission, Dr. Dorothea Crittenden leaves her office.

Her knowledge of governmental processes was immense. She was able to get things done that would have taken others months to achieve. Best of all, she believed in the commission and its tasks. She gave herself unstintingly to upholding the Code and its spirit.

When it came to the rights of others, she was unflinching and admirably stubborn. She leaves to all of us who remain with the commission a large commitment to justice and humanity.

We wish her well. We hope that we may continue to call on her in many ways and utilize her enormous knowledge as well as her devotion to the ideals of human rights. May the years ahead be very good to her.



New code a milestone

Twenty years after the *Ontario Human Rights Code* was first enacted, a new update bill was passed by the legislature. The passage was far from smooth, and its critics voiced their opposition both to details of the bill and to its fundamental philosophy. In fact, the very need for human rights

legislation was under attack, and much of its brunt was borne by Dr. Robert Elgie who, with patience and persistence, guided the bill through the legislative process.

Now that we have a new Code, the people of Ontario, we hope, will use it as a more secure guide to better human relations.

Ladies' day – a violation of the code?

On several occasions, the commission has been faced with complaints that women customers are given special, preferential treatment by certain establishments. The latest complaint was directed against a service station that advertised that 'Tuesday is ladies' day.' On Tuesdays, women received a discount of \$2.00 on an oil change.

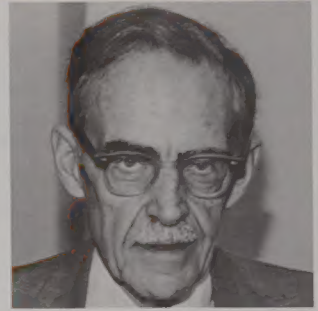
The respondent freely admitted that on such occasions he was treating women preferentially, but emphasized that this was done in order to attract new business. Subsequently, a settlement was arrived at, which brought the complainant a free oil and lubrication job for discount coupons, and the proprietor's promise that he would consider the introduction of a special men's day as well.

We have no way of knowing whether, in fact, this kind of promotion attracts additional

customers; we do know that, technically, the Code was breached and is being breached in similar circumstances — such as the traditional Ladies' Day at the ball game — but we also believe that the Code was never intended to extend its prohibition into this area. Quite obviously, there is a fine line where the application of this, or any, law stands back before a common practice that is not truly injurious to any particular part of the population and which does not in any wise, by itself, constitute discrimination on principle. Under the old Code, the commission was obligated to accept this complaint like any other that was brought, whether or not it might be deemed to border on the frivolous. The new Code gives the commission wider discretion and it will remain to be seen how it will deal with such cases in the future.

A man for all human rights

By Anita Dahlin



Born in 1910 in Vankleek Hill, a town north of Cornwall on the Quebec border, Ontario Human Rights Commissioner Dr. Albin Jousse is known around the world as a distinguished pioneer and expert in rehabilitation medicine, which he defines as 'including the total methodology of treatment for the disabled and the restoration of a person's will to overcome an injury.'

This spring it will be three years since Dr. Jousse was appointed to the Ontario Human Rights Commission. He acknowledged that his appointment may have been premature, in that his expertise in dealing with the disabled has been largely untapped in the absence of protection for them in the *Ontario Human Rights Code*; amendments which were thought to be imminent when he became a commissioner. However, he has found his tenure 'very interesting. Everyone is so bright and stimulating.'

When reviewing cases and making policy decisions with his colleagues on the commission, he feels he has tended to 'support the human factor in case situations, as opposed to legal factors.'

Dr. Jousse explains rehabilitation medicine as a team effort, involving nurses, therapists, speech pathologists, social service workers and vocational counsellors along with the physician. The rehab team helps to restore well-being through exercise and helps to circumvent the disability through artificial limbs and other technological adaptations. Rehabilitation also involves helping people to relinquish their previous goals and find a vocation for which their disability is a minimal hardship, he said.

The physician's role is to evaluate the disorder, discover the patient's limits and how to minimize them — essentially supervising the rehabilitation process.

'Patience is the main asset of a physician in this situation,' said Dr. Jousse. He ought to know.

Dr. Jousse does not mind talking about his own disability. At age 12,

a leg weakness was discovered, which increased as he grew older. Ironically, there is no diagnosis. Dr. Jousse now walks with two canes. While not in pain, he finds himself easily fatigued. He has made his wife promise to leave his body to science so that the nature of the illness may be discovered and perhaps be prevented in future.

Along the way, he has received two honorary degrees of which he is particularly proud — from Queen's University in 1967 and Dalhousie, 1981. His curriculum vitae includes additional honours, among which is the Order of Canada, but he will tell you, quietly and candidly, that the one that means most to him is not listed.

It was a 1945 Chevrolet, given to him by injured veterans he was treating early in his career at Lyndhurst, where he practised physical and rehabilitation medicine. The vets, many of whom were rendered paraplegic and quadriplegic as a result of spinal cord injuries received overseas, chipped in to replace his 1936 model, which had 100,000 miles on it. Dr. Jousse was both surprised and touched at the gift. The young men were between 18 and 21 and had only their military pensions. 'We owed them a lot.'

Dr. Jousse cannot remember the citation that made him an officer of the Order of Canada, ('I lost it.'), but details of how he received the chevy, back in 1947, are quite clear in his reminiscences. Not surprising in a man who has spent his lifetime developing the best from human potential.

Anita Dahlin is supervisor of the Southwestern Ontario Region of the Ontario Human Rights Commission.

Ethnic jokes

A black Trinidadian was laid off from a position as a sales clerk because, she was told, of economic pressures. Also, her sales record was said to be below par.

The complainant knew, however, that her sales record had been better than average and she also knew that the assistant manager (who fired her) made discriminatory remarks about black people. He was in the habit of telling ethnic jokes quite

freely and the complainant perceived his attitude to be a contributing factor in his negative evaluation of her.

The commission's officer found evidence in support of the allegations and, in settlement of the complaint, the respondent paid the complainant \$1000.00, which represented \$185.00 in lost wages plus interest and compensation for insult to her dignity. The complainant also received a letter of apology from the company.

Policewoman in Timmins

Ms. Kathy Hartling, of St. Catharines, complained that when she applied for the job of police constable in Timmins, she was refused because she was a woman.

There appeared to be little question that, in this case, the Code had been breached. Timmins Police Chief Floyd Schwantz had indicated to the complainant that the force could not bear the cost of building a new change and washroom to accommodate a female constable. At first, Ms. Hartling concluded that she had been rejected for a variety of reasons and considered the matter closed.

Later, however, she read the text of an interview, which reporter Peter Blake of the *Timmins Daily Press* had had with Chief Schwantz, in which the chief clearly stated his philosophy: he did not believe that women were particularly suited for police work; they were likely to follow their husbands in whatever career moves they might make; they might not be willing to work weekends or shifts, and there was always the possibility that they

would become pregnant, which would disrupt the work assignments of the force. He was also reported as having said that there would be 'a problem of altering uniforms for women as they changed size because of pregnancy.'

Prof. Peter A. Cumming, sitting as a board of inquiry, had no difficulty finding discrimination by the Timmins Police Force, which was ordered to give Ms. Hartling's application fair consideration.

The decision is particularly instructive because it contains a broad analysis of sex discrimination law in Canadian jurisdictions and the level of general damages that might be awarded a complainant. In the case under judgement, the respondents were ordered to pay Ms. Hartling \$3,000.00 in general damages.

linguistic or cultural situations. However, here, as elsewhere, it is the ability of the person to perform the job that should be in question and not that person's background and ancestry. One might call this cultural stereotyping, which is not unlike racial or sexual prejudgement and generalization.

continued from page 2
The French factor
insult to her dignity and gave assurance of non-discriminatory policy.

The problem out of which this case arose is not unique. There is a widespread belief that unless a person is of a certain ancestry, he or she cannot adequately handle

How much prejudice is needed?

In mid summer 1981, Professor Ian A. Hunter served as a board of inquiry in the case of Mrs. Florence Shakes versus Rex Pak Ltd. and rendered a decision that clarified an important aspect of the law.

Mrs. Shakes, a black woman, had seen an advertisement for help wanted in the food packaging department at Rex Pak. She had applied but was refused, and, from remarks that had been passed, concluded that the refusal was based on racial prejudice. The Human Rights Commission, which considered the case, decided that there was enough evidence to suggest that prejudice might have played a role in the company's rejection of Mrs. Shakes and asked the minister to appoint a board of inquiry.

Professor Hunter dealt, first of all, with a fundamental question. If racial prejudice was only a contributory reason for refusing employment to Mrs. Shakes, but not the whole, or even the main, reason, would this constitute a breach of the Code? He answered in the affirmative, relying on a judgement by Professor (now Judge) Stephen Borins in the case of Kennedy v. Mohawk College, in 1973:

'Discrimination on the grounds of race or colour is frequently practised in a very subtle manner. Overt discrimination on these grounds is not present in every discriminatory situation or occurrence. In a case where direct evidence of

discrimination is absent, it becomes necessary for the board to infer discrimination from the conduct of the individual or individuals whose conduct is at issue. This is not always an easy task to carry out. Conduct alleged to be discriminatory must be analysed in the context of the situation in which it arises. In my view, such conduct, to be found discriminatory, must be consistent with the allegation of discrimination and inconsistent with any other rational explanation. This, of course, places an onus on the person or persons whose conduct is complained of as discriminatory to explain the nature and purpose of such conduct.'

Needless to say, that when there is prima facie indication of discrimination, and the respondent cannot satisfactorily explain his or her conduct in the matter, the suspicion arises that prejudice did, in fact, play a role Professor Hunter reiterated this important rule.

In the case under consideration, however, he found that insufficient evidence had been presented to establish that Rex Pak had practised any form of discrimination and he dismissed the complaint.



Miller Services

continued from page 1
OFL anti-racism campaign
plants four color posters that make the point that racism hurts everyone.

The project undertaken by the OFL and its human rights committee stems from a mandate for anti-racist action by last year's convention, where prominence was given to incidents involving the Ku Klux Klan.

When the program is fully under way it will involve 45 affiliated local labor councils and most of the federation's 2,000 affiliated locals. The councils and the locals will be asked to distribute 400,000 color leaflets in shopping malls, transit stops, and at sports events.

The 5,000 posters will be placed in plants, churches, schools, libraries and other civic buildings.

At a press conference, OFL president Clifford Pilkey said that in difficult economic times, minority groups, especially those that are

non-white, become scapegoats for economic and social ills.

"Racism tends to flourish when economic times get tough. Competition for jobs, housing, education and social services is intense.

"Rather than blame the system for our economic and social ills, many single out visible minorities as scapegoats. And that's racism."

Terry Meagher, the OFL's secretary-treasurer, said there have been reports by some union officials of discriminatory treatment of minorities by fellow employees as well as derogatory remarks by supervisors about employees from minority groups.

Mr. Pilkey said racist attitudes are contrary to everything labor espouses and are dangerous to the trade union movement.

Reprinted from The Globe and Mail, October 27, 1981.

What does the commission deal with?

Last summer, during a typical work month, the commission staff handled a total of 1,740 inquiries and referrals. We thought you might like to see what a summary of staff intake reports reveals. It includes all regions of Ontario.

Inquiries and Referrals Handled During Month:

Calls	1509	Visits	215	Letters	16	Total	1740
-------	------	--------	-----	---------	----	-------	------

Breakdown of Inquiries and Referrals:

(1) Present grounds (Ontario Human Rights Code)		
Housing		90
Employment		448
Services and Facilities		68
(2) Proposed additional grounds (Bill 7)		
Age		13
Physical Handicap		29
Criminal Record		4
Sexual Orientation		4
Total proposed new grounds		50
(3) Race and ethnic relations		
Police		2
Media		—
Workplace		3
Educational Institutions		—
Neighbourhood Relations		6
Other		11
Total race and ethnic relations		22
(4) Various		
Advertising Reviews		16
Exemptions		15
Application Forms Reviews		47
Speaking Engagement Requests		25
Information on Code, Commission and Boards of Inquiry		161
General Information		315
Referrals		334
Other		149
Total all regions:		1740